UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1990/SR.44/Add.1
7 March 1990

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE SECOND PART* OF THE 44th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 28 February 1990, at 6.20 p.m.

Chairman: Mrs. REGAZZOLI (Argentina)

later: Ms. SINEGIORGIS (Ethiopia)
Mrs. QUISUMBING (Philippines)

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Advisory services in the field of human rights (continued)

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* The summary record of the first part of the meeting appears as document E/CN.4/1990/SR.44.

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GE.90-11300/1605B

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 22) (continued) (E/CN.4/1990/42, 43, 44 and Add.1, and 45 and Add.1, E/CN.4/1990/NGO/19 and 20)

1. Mr. BARSH (Four Directions Council), making a joint statement on behalf of the Grand Council of the Crees (of Quebec) and the Indian Council of South America, as well as his own organization, said that, as pointed out at the recent global consultation on the right to development, greater co-ordination was needed to ensure that all United Nations programmes and policies, particularly in the field of development, were consistent with human rights norms. A parallel question was whether the United Nations human rights programme itself was effectively intended to bring about concrete changes in the enjoyment of such rights. At present, the programme of advisory services principally gave legal advice to Governments. However, legislation could not change human behaviour in societies where power was unevenly distributed. Any effective human rights programme would of necessity have to deal with power, and the empowerment of people to exercise and defend their rights.

2. Greater attention should be paid to the possibility that the Centre for Human Rights might mobilize resources from other international agencies in order to initiate projects calling for non-legal technical skills. A hopeful example had been the recent co-operation between the Centre and UNDP. A basic charter for the programme was also needed in order to guide the Centre in planning projects; the lack of specific guidelines had left priorities in the hands of the major contributors to the Voluntary Fund, so that the programme was only superficially multilateral. Such guidelines should, as a minimum, include: a standard form for applications, a list of elements to be included in an agreed project plan, criteria for project eligibility and criteria for selection from among eligible projects.

3. Recent developments in two situations involving indigenous peoples had raised some very basic questions concerning methods of work in the field of human rights, and in particular the potential role of direct United Nations assistance. Firstly, the appointment of Mr. Willemsen Diaz as a special adviser on the situation of indigenous peoples in Guatemala was a welcome one. His detailed recommendations, set out in section V of the report contained in document E/CN.4/1990/45/Add.1, reflected the view of indigenous rights found, for example, in ILO Convention No.169, and were acceptable. Such a programme, however, could be realized not by decree, but rather by channelling real resources directly to indigenous communities. If the Commission was serious about dealing with the situation in Guatemala through a positive rather than a punitive approach, it should give priority to mobilizing United Nations resources for strengthening the economic and political conditions of the indigenous majority in that country.

4. Secondly, the Western Amazon had been attracting considerable international attention from the environmental and human rights viewpoints. The problem was, however, far from simple. Migration to the interior was caused by economic stresses that in turn reflected the problems of external debt and terms of trade for agricultural products. They in their turn accelerated a chain reaction leading to further migration. Indigenous peoples were the ultimate victims, but scarcely the only victims in that process. As implied in the Declaration on the Right to Development, a long-term solution must be found in an appropriate development strategy and in better use of international resources for the entire region. In that context, he drew

attention to the 1978 Treaty for Amazonian Co-operation. At a meeting held in Quito in March 1989, the Ministers for Foreign Affairs of the eight States parties had agreed to establish a special regional commission for indigenous affairs (A/44/188), inter alia, to reinforce the ethnic identity of the indigenous populations, ensure their effective participation in all matters relating to them, and promote development programmes responding to their real aspirations and needs. Those aims had been reaffirmed in a joint declaration of the Presidents of the eight States parties at Manaus (Brazil) in May 1989. That had been an important step forward and would, with genuine political support, provide the best possible framework for a regional effort to stabilize the Amazonian ecosystem and make it possible for indigenous peoples to survive and develop on their own terms. UNDP had already made certain commitments to that regional arrangement, and he urged States parties to consider the possibility of a technical mission by the Working Group on Indigenous Populations and the Centre for Human Rights to study ways of focusing the greatest possible United Nations financial and technical assistance on the region. The Amazonian Treaty itself addressed development, the environment and human rights, and thus provided an exceptional opportunity for co-ordinated United Nations action covering those three fields.

5. Mr. ALVARADO (International Association against Torture) said that continuous and systematic violations of human rights in Guatemala indicating serious inadequacies in human rights advisory services had been reported at the forty-fifth session of the Commission, which in resolution 1989/74 had called for the continuation of such services to the Guatemalan Government. However, reports from national and international human rights organizations indicated that the desired results had not been achieved since serious violations of human rights had continued to occur in 1989.

6. Under the terms of its Constitution, Guatemala was obliged to give any international treaties and conventions it had accepted and ratified primacy over domestic legislation. It was thus imperative for the Government and the army to implement and respect the international human rights instruments to which the country was a party. It was evident from section VI, Conclusions, of the report of the expert on the human rights situation in Guatemala (E/CN.4/1990/45), and more particularly from paragraph 66 (c), (d), (f), (h) and (i), that the advisory services were ineffective. The principle obstacle to the realization of human rights in Guatemala was represented by army structures and procedures that rendered any law, including the Constitution, inoperative. Until such structures and procedures had been dismantled, all that the enactment of legal instruments would do would be to bolster the lip-service paid by the Government to the promotion of human rights.

7. One of the Expert's recommendations had been to continue human rights courses. However, the people of Guatemala, especially the least privileged, were well aware of their rights from an early age, since they were born to poverty, hunger and discrimination. Their struggles for those rights had been silenced by force of arms. It was mistaken to claim that the people were violent by nature; the army had been the agent that had broken society's rules and brought grief to thousands of homes. The advisory services served only those who perpetuated genocide and used international instruments to which Guatemala was a party as a cloak for continued repression. Surely there had now been enough victims of human rights abuses in Guatemala for the Commission to decide to treat that country as a special case. It urgently needed a

special rapporteur, as requested by the people of Guatemala and endorsed by the Human Rights Commission of the Congress of the Republic. Advisory services should be provided only to Governments making genuine practical efforts to curb human rights abuses. In the case of Guatemala, such assistance should be directed rather to the human rights organizations which were genuinely concerned to defend the rights of citizens, and not to those who violated those rights. He appealed to the United Nations and non-governmental organizations to give every assistance to the indigenous populations for their development and to enable them to defend their rights more effectively against their oppressors.

8. Mr. RYDER (International Confederation of Free Trade Unions) said ICFTU was concerned about a number of problems relating to the advisory services. The Commission's objective was to promote respect for human rights rather than to condemn or extol any Government for its performance. The receipt of advisory services by any country should therefore not be viewed as a seal of approval for its Government any more than the establishment of a special procedure under item 12 should be seen as an act of censure or hostility.

9. The restoration of formal political liberties did not always lead automatically to restoration of human and trade union rights. In situations where special procedures were already in place, therefore, it might not always be appropriate to bring them to an immediate end when the Commission decided to introduce advisory services. A period of coexistence of the two procedures might well be more effective. Furthermore, the Commission must be prepared to reintroduce the special procedures available to it under item 12 in cases where serious human rights abuses continued despite the provision of advisory services. Such circumstances prevailed in two of the countries under review.

10. In Guatemala, there had been a crescendo of attacks on the rights and lives of trade unionists in recent months. In the wake of the failed coup d'état in May 1989, assassinations, death threats, intimidation and repression had been rampant. Further cases of abduction, torture and assassination had occurred very recently. In those circumstances, ICFTU urged the Commission to appoint a Special Rapporteur on Guatemala.

11. It recommended the same action in the case of Haiti. Developments since the fall of the Duvalier régime had proved a cruel disappointment to those working for human rights in that country and Haitian trade unionists had suffered a long series of grave human rights violations.

12. Although the deplorable human rights situations in Guatemala and Haiti could not be attributed to the inadequacies of the advisory services provided to those countries, it would be very useful to make a detailed evaluation of the criteria governing the provision of such services and, in the case of trade union rights, to call on the specialized expertise of ILO in the future provision of such services.

13. In accordance with draft resolution V of the Sub-Commission, the Commission was invited at its present session to provide advisory services to Paraguay. ICFTU drew attention to the grave violations of trade union rights that had continued in that country since the overthrow of the Stroessner régime. Workers had been summarily dismissed, arbitrarily detained, shot at and killed. His organization hoped that the Commission would take those disturbing events into account when it took the relevant decisions.

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14. Mr. DAHL (Sweden), speaking on behalf of the delegations of Denmark, Finland and Norway, as well as his own delegation, said that the Nordic Governments attached great importance to the United Nations programme of advisory services and technical assistance, as was evident from their contributions to the Voluntary Fund. Methods for making the programme more efficient were therefore of interest to them. The report of the Secretary-General (E/CN.4/1990/43) clarified the main priorities of the advisory services programme. The Nordic Governments supported the emerging emphasis on technical assistance and would support even greater emphasis on that aspect, since it was extremely important to view the promotion of respect for human rights as an essential element in the overall promotion of economic and social development. Exploration of further ways to integrate the advisory service programme into various other development activities within the United Nations system was therefore welcome and would encourage donor Governments to consider further contributions to the Fund.

15. The programme was still in an initial experimental phase, but the time would soon be ripe for evaluation of that phase. General criteria regarding the desired use of the Fund and ways to follow up and evaluate individual projects financed by it, needed to be discussed in that context.

16. The dialogue between the secretariat and interested Governments might also usefully be extended to representatives of NGOs, including human rights organizations active in countries in a transitional phase or where serious human rights problems existed. The willingness of Governments to co-operate with such organizations should be seen as a sign of their genuine interest in promoting and improving their human rights situation. The Nordic Governments therefore endorsed the idea that technical support to Governments might include support to responsible human rights organizations in those countries. They were willing to engage in consultations with other interested parties on all matters aimed at making the advisory services and technical assistance programme a viable and flourishing one.

17. Mrs. EKONG (Nigeria) said that the programme of advisory services was of crucial importance in promoting human rights. The expansion of those services had been closely related to the increasing commitment of many countries to improvement of their human rights record. The report of the Secretary-General (E/CN.4/1990/45) set out the established policy guidelines for advisory services. In the opinion of her delegation, such assistance could be used as a tool complementing other United Nations human rights programmes. However, advisory services could not be made a susbstitute for the reporting, monitoring and investigation of situations that revealed individual as well as gross violations of human rights, nor, as mentioned in the report, should provision of such assistance be made a pretext for Governments to evade their primary responsibility for promoting respect for, and enjoyment of, all human rights.

18. Her delegation endorsed the suggestions and proposals for the provision of advisory services made by the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Racial Discrimination (CERD). It endorsed the latter's recommendation that technical assistance and advisory services should be provided on a regular basis to assist States parties to the Convention to fulfil their reporting

obligations. Since economic, social and cultural rights could not be dissociated from political and civil rights, Nigeria wholeheartedly supported CERD's recommentation to incorporate economic, social and cultural rights in all regional and other training courses, workshops and seminars.

19. The fellowship programme should be continued. Her delegation welcomed the increasing emphasis on the training of government officials responsible for the implementation of international conventions relating to political, economic, social and cultural rights, and recommended that more fellowships should be awarded to law-enforcement agents in view of their vital role in implementing human rights standards.

20. Advisory services in the field of human rights had an important part to play in the organization of training courses, a form of co-operation that should be strengthened since many Governments had benefited from it. The Centre for Human Rights should further publicize the programme in order to encourage more Governments to make use of it. Her Government would particularly welcome assistance in the development of adequate law and human rights reference libraries for the administration of justice. It noted that advisory services were being provided to Equatorial Guinea, Haiti and Guatemala, and that those services appeared to be fully utilized by those countries.

21. Her delegation highly commended the projects executed in 1988/1989 through the agency of the Voluntary Fund for Advisory Services and Technical Assistance in the field of Human Rights. It expressed appreciation to the countries and NGOs that had contributed to the Fund and called for further donations to it.

22. Her delegation hoped that the Centre for Human Rights would consider organizing, as soon as possible, a seminar in the West African subregion to help strengthen the regional arrangements at present being made for the promotion, protection and enjoyment of human rights.

23. Mr. VILLARROEL (Philippines) drew attention to the fact that, in addition to providing the advisory services of experts, granting fellowships and scholarships and organizing seminars, the programme for advisory services had in recent years been expanded to include, inter alia, national and regional training courses on international human rights standards, assistance in the strategies of national institutions and infrastructures designed to protect and promote human rights, and the establishment or development of regional human rights institutions and mechanisms. As part of the programme, a National Workshop on Human Rights for Peace and Development had been held in Manila from 31 July to 4 August 1989, with the participation of 300 representatives from various national agencies and institutions. It had made recommendations in five major areas: human rights education and training; dissemination of human rights information; human rights and the justice system; human rights and public order; and international standard-setting and reporting on human rights. In addition, an Asian and Pacific regional workshop on various human rights issues was to be held in Manila in May 1990 under the joint auspices of the Centre for Human Rights and the Government of the Philippines, with delegates from 35 countries in the region.

24. The recent restoration of human rights and fundamental freedoms in many countries had made it even more important that the United Nations should assist those Governments to develop the infrastructure needed to meet international human rights standards. As the Secretary-General had stated in his report (E/CN.4/1990/43), the provision of such assistance should not be used as a pretext for Governments to evade responsibility for the human rights situation in their countries. While few Governments had in the past availed themselves of the advisory services of experts, in recent years the demand for such assistance had grown and experts had been sent to Guatemala, Haiti, Equatorial Guinea, Colombia and the Gambia. That was a trend which should be encouraged, since it made it possible to collate objective information on situations and to appraise the political will of the Governments concerned. It also facilitated the task of monitoring the execution of particular advisory services programmes and evaluating the extent to which a Government should benefit from United Nations advisory services and technical assistance.

25. Referring to the report on Equatorial Guinea prepared by the Expert, Mr. Volio Jimenez (E/CN.4/1990/42), he said that his delegation welcomed the measures taken by the Government to speed implementation of the plan of action for the restoration of human rights and fundamental freedoms in the country, and particularly those measures mentioned in paragraph 44 of the report. It hoped that the special review commission to ensure compliance with all aspects of the plan of action would be established without further delay. As a developing country itself, the Philippines understood the difficulties faced by the Government and people of Equatorial Guinea and called on the international community to lend its full support to them.

26. The report on Haiti by the Expert Mr. Philippe Texier (E/CN.4/1990/44) had caused his delegation deep concern. The apparent lack of co-operation and will on the part of the Haitian Government to avail itself of the advisory services and technical assistance offered by the Secretary-General was regrettable. In view of that inaction, the appointment of a Special Representative to study the situation in Haiti might be appropriate.

27. As far as the report on Guatemala was concerned, Mr. Gros Espiell had indicated a change of thinking and new awareness of the need to respect human rights, and there were therefore some grounds for optimism concerning the future. It was important to bear in mind that it was far from easy for a newly-restored democracy to institute a truly effective human rights régime, particularly when armed fringe groups and insurgents resorted to violence in order to settle their disputes with the Government. While it was right to deplore continued violations of human rights in Guatemala, the Government was, for all its shortcomings, the best guarantee of the protection of human rights in that country, and the Commission should therefore take care to ensure that, in attempting to do good, it did not undermine the Government. His delegation would accordingly find it difficult to support a proposal to appoint a Special Representative to examine the human rights situation in Guatemala. The imposition of an unwelcome Special Representative on Guatemala would not respect the wishes of the Guatemalan Government and would be self-defeating, for without the Government's co-operation, the Special Representative could do very little to execute his mandate. While the slow process of change in Guatemala might not be to the liking of some countries, they should perhaps reflect on the hundreds of years and the millions of ruined lives it had cost them to reach the high moral ground on which they now proudly stood.

28. Ms. Sinegiorgis (Ethiopia) took the Chair.

29. Mr. KERKINOS (Observer for Greece) stressed that it was necessary to develop and expand the United Nations programme for advisory services in the field of human rights and that the resources made available to the programme, either directly or through the Voluntary Fund, should serve to make the advisory services more widely known and their application more fruitful.

30. In connection with advisory services, the Centre for Human Rights had in 1989 organized, together with the Greek Government, a seminar on the cultural dialogue between the countries of origin and host countries of migrant workers, held in Athens from 18 to 26 September. There had been much interest among countries of origin and host countries in the seminar, which had initiated a dialogue on an important subject that had not previously been considered. The seminar had also produced some valuable recommendations, which were listed in its report (E/CN.4/1990/50) and constituted a sound basis for a future international instrument. The Athens seminar, which had greatly increased awareness of the cultural rights of migrants, had demonstrated the important role of advisory services in areas of common concern. It was his delegation's belief that both members and observers of the Commission should contribute to the programme and help the Centre for Human Rights to make advisory services available to all countries in need of them.

31. Mr. LOSCHTCHININE (Union of Soviet Socialist Republics) commended the Centre for Human Rights for the increased quantity and quality of the advisory services and technical assistance it provided. The Centre had organized many seminars, workshops and training courses and, at the request of Governments, had implemented technical assistance programmes. One such training course had been held in Moscow in December 1989 on the subject of international human rights norms and standards, and had been attended by experts from a number of international organizations and countries in the West. Preparations were currently in progress for the workshop to be held in the Soviet Union in 1990 for representatives of European countries, the United States and Canada to study problems of implementation of the provisions of international instruments relating to human rights, fundamental freedoms and other related questions.

32. His delegation valued the advisory services and technical assistance provided by the Centre to developing countries in Asia, Africa and Latin America, and particularly the training given to members of police forces, army officers, civil servants and judges in the observance of international norms in the administration of justice and enforcement of domestic criminal legislation. Many such programmes would be impossible without the resources available from the Voluntary Fund, which was being put to good use. However, it was important that the provision of advisory services and technical assistance at the request of Governments should not replace the role of the special rapporteurs of the Commission, Sub-Commission or Working Groups. In that connection, part of the special rapporteur's work should be to point out to the Centre any further technical assistance that Governments might require.

33. It was his delegation's belief that advisory services might be more effective if the Centre for Human Rights were to co-operate with other organizations in the United Nations system, notably ILO, UNESCO and UNDP. To that end, the Commission should consider organizing a system for the

continuous exchange of information regarding those programmes relating to human rights that were implemented by such organizations. And representatives of those organizations should be involved in specific joint technical assistance programmes in countries where they were needed.

34. Mr. SEZAKI (Japan) said that the programme for advisory services was one of the most useful ways in which the experience of the international community in the field of human rights could be disseminated to individual States. The assistance provided under the programme had contributed greatly to the implementation of human rights standards within the international community. The Voluntary Fund for Advisory Services had been established in 1987 to strengthen and broaden the scope of services offered. In view of its importance, Japan had made a contribution of $US 50,000 to the Fund in 1989 and, subject to approval by Parliament, was prepared to make the same contribution in 1990. It hoped that its contributions would be used effectively, and that informal meetings, similar to the one held the previous December, would be held periodically between the Centre for Human Rights and donor countries in order to provide them with opportunities to express their views.

35. A particular contribution to the promotion of human rights had been made by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders. Established in Tokyo in 1961 to promote regional co-operation in combating crime and delinquency, the Institute had trained Asian and African officials in criminal justice administration and conducted research into crime prevention and the treatment of offenders, with a view to bringing about sound social development in Asia, the Pacific region and Africa. The administrative and financial responsibilities had all been borne by the Government of Japan, which believed that the Institute would continue to play a significant role through its training courses and seminars.

36. Mr. ARTEAGA (Venezuela) stressed the importance of advisory services in helping Governments to comply with their obligations under international human rights instruments. Timely and effective co-operation often yielded much better results than mere monitoring of the human rights situation in a particular country.

37. Given the traditional co-operative relations between his country and Haiti, his delegation was particularly disturbed by the problems in Haiti, particularly those relating to human rights and the democratization process. The report (E/CN.4/1990/44 and Add.1) prepared by the Expert, Mr. Philippe Texier, painted an alarming picture of the situation in that country. In his delegation's view, however, the content of the report seemed more appropriate to that of a report by a special rapporteur than by an expert in advisory services and, consequently, the specific objective of agenda item 22 - advising Governments on how to ensure that human rights were respected - might be undermined. Care should therefore be taken to ensure that the agenda item on advisory services did not become a second-class item 12. That would not be in keeping with the objectives of the Commission or those of the country involved, which had the right to have its case discussed in accordance with the ordinary procedures.

38. It was nevertheless clear that Mr. Texier's task had not been easy. The authorities had been reluctant to receive advisory services, as was evident from paragraphs 102, 104 and 107 of the report. The desperate economic and

social conditions in the country had been highlighted, and confirmed his delegation's conviction that civil and political rights were inextricably linked to economic, social and cultural rights. If persistent violations of human rights were to be eliminated in Haiti, the determined co-operation of the Government was vital.

39. Turning to the report on Guatemala (E/CN.4/1990/45) prepared by the Expert, Mr. Gros Espiell, he observed that, despite greater efforts on the part of the Government to promote human rights and fundamental freedoms, the situation had generally deteriorated. His delegation was convinced that the Government of Guatemala had made every effort in recent years to strengthen domestic legislation in order to improve respect for human rights and thereby consolidate the democratic process. While the United Nations had made a considerable contribution by training civil servants and public authorities and strengthening institutions responsible for protecting human rights, efforts to improve the situation had been hampered by continuing violence. His delegation endorsed the recommendations contained in chapter VII of the report, in particular in paragraph 71 (c), which stated that it was essential to continue the broad programme of assistance to the Government in order to help the democratic process. Given the Government's commitment to democracy, the international community should support and encourage its efforts to strengthen human rights institutions. Venezuela, together with other Latin American members of the Commission, would sponsor an initiative comprising all the points which he had just made. His delegation counted on the Commission's support for that initiative.

40. Mr. HAMMOND (Canada) said that advisory services had been the first substantive United Nations programme to introduce human rights to new audiences in a variety of countries and should be a central pillar of an invigorated human rights programme. While a number of programmes had been implemented and a limited degree of system-wide co-operation secured, his delegation was still concerned about a number of points relating to the long-term improvement of the advisory services programme.

41. There had been a tendency in recent years for States to include under the advisory services item country situations which were inappropriate to its purpose. It was important to draw a distinction between the regular-budget programme and the voluntary programme. With respect to programmes funded by regular-budget sources, there was clearly scope for spreading the message of human rights more evenly and thoroughly. However, the regular-budget programme appeared to lack coherent objectives in some areas, such as public information. In his delegation's view, the Commission had not yet made its supervisory role effective with respect to the regular-budget programme. Similarly, his delegation also had doubts about the seminar programme and the effectiveness of the scholarship programmes offered by the Centre.

42. The voluntary programme was entirely different. Under that programme States could work with the Centre to develop institutions and infrastructure to support human rights in the long term. His delegation considered that the planned meetings between interested Governments and the Centre for Human Rights should concentrate on the following policy and management issues: the place of technical assistance and the Voluntary Fund in the United Nations human rights programme; the appropriate type and blend of activities to be supported under the Voluntary Fund; ways of improving project identification, definition and planning, including sources of project proposals, needs

assessment, identification of agents to carry out projects, and identification of alternative and multiple sources of funding; programme and project evaluation, audit and follow-up methods, and procedures for reporting to intergovernmental organs and donor Governments; ways of improving co-ordination between technical assistance in the field of human rights and other activities of the United Nations system; ways of supplementing the resources and expertise of the Centre for Human Rights in management of technical assistance activities; and major current or proposed projects.

43. Canada's contribution to the Fund could only be used following consultations with the Canadian Government. The Centre would need to produce proposals which were clearly articulated, with well-thought-out objectives, and were of demonstrable long-term benefit to the countries concerned. Over the past three years, the Centre had been slow to establish structures to meet the evident needs of potential recipient countries. His delegation did not consider it essential to set up a group of trustees for the Voluntary Fund; it seemed more important for the Centre to seize the opportunities offered by the Fund and ensure that it reached its full potential.

44. In the present world financial climate, his country found it difficult to justify a programme such as the advisory services programme, whose costs were very high in relation to the benefits it yielded. It hoped that, by means of co-operation between interested Governments and the secretariat, the programme could be made to do justice to the critical tasks it was meant to address.

45. Mr. MEZZALAMA (Italy) said that his country fully supported the programme for advisory services in the field of human rights. The programme had an enormous task ahead of it, and only limited resources; his delegation had therefore welcomed the establishment of the Voluntary Fund in 1987 as an essential complement to the programme's resources. Italy was a convinced contributor to the Voluntary Fund.

46. In view of the limited resources available, it was essential to ensure the best possible co-ordination between the Centre for Human Rights and all other competent United Nations bodies and international organizations. His Government had, accordingly, welcomed the inter-agency meeting in Geneva in April 1989. One of the points raised during that meeting - the interrelationship between development assistance and technical assistance in the field of human rights - had also been stressed at the recent global consultation. It was essential to pay more attention to the human rights aspects of development projects, and his delegation welcomed the increased co-ordination between the Centre for Human Rights and UNDP.

47. Some delegations had dwelt on the distinction between the activities financed by the regular budget and those financed by the Voluntary Fund. His delegation considered that the two types of activity were clearly complementary and served the same overall objectives. Flexibility was essential if changing requests and regional priorities were to be met. The secretariat had discussed that issue, and the optimum use of contributions to the Voluntary Fund, with interested missions in Geneva during the past year; that informal arrangement seemed preferable to a formal structure, such as the proposed governing body, which hardly seemed necessary given the limited amount of money in question. His delegation did, however, support initiatives such as the advisory group which had been set up within the secretariat in order to improve the procedures for reviewing requests, and identifying, appraising and monitoring projects.

48. Both the Centre for Human Rights and member countries should be aware of other potential sources of advisory services and technical assistance, particularly at a regional level, in order to ensure the best possible use of the Centre's limited resources. The Centre must, of course, give priority to the needs of developing countries.

49. For the future, his delegation saw no reason to depart from established practices and guidelines. It was, however, important to select with care the people who were to take part in seminars and workshops. His delegation had noted with satisfaction the success of the training course for Colombian judges in Castelgandolfo (Rome) in September 1989, and hoped that the planned training course on the administration of justice and human rights for francophone African countries, to be held at the San Remo Institute of Humanitarian Law during 1990, would be equally successful. In the preparation and realization of projects, the secretariat should make full use of the experience and practical knowledge of competent NGOs.

50. Turning to the report of the Expert on Haiti (E/CN.4/1990/44 and Add.1), his delegation was obliged to express its disappointment at the steady deterioration in the human rights situation there and the apparent lack of interest of the Haitian authorities in the services provided by the Centre. His delegation was prepared to consider any alternative measures which the Commission might see fit to propose.

51. Mr. Gros Espiell's illuminating report on the situation in Guatemala (E/CN.4/1990/45) showed the persistent pattern of serious violations of human rights in that country. Any decision taken by the Commission on follow-up activities must be directed towards the strengthening of democracy in Guatemala. The contribution of technical assistance to that objective had been most valuable.

52. He also wished to thank Mr. Volio Jimenez and Mr. Ortiz Lopez for their report on the situation in Equatorial Guinea (E/CN.4/1990/42). That country needed continuing assistance in the field of human rights, although the authorities had shown themselves willing to improve the situation.

53. Lastly, he wished to draw attention to the often expressed concern that political abuse might jeopardize the effectiveness and integrity of the advisory services programme and that countries might resort to the programme as an excuse for not taking any real action. It was a concern which the Commission would do well to bear in mind.

54. Mr. STROHAL (Observer for Austria) noted that the programme for advisory services concerned the prevention of human rights violations before they occurred and therefore deserved to be one of the main priorities of the Centre for Human Rights. In his delegation's view, the programme should be further strengthened and publicized. Such considerations were even more important now that the Voluntary Fund - to which his country had already made two contributions - had reached a level where it could begin to operate.

55. His delegation welcomed the Secretary-General's report on the advisory services programme (E/CN.4/1990/43). It was gratifying to note the growing co-operation between the Centre for Human Rights and the crime prevention and criminal justice branch of the secretariat, UNDP and the specialized

agencies. It was also important to co-operate with regional human rights institutions and interested NGOs. The Centre was already considering ways to incorporate human rights concerns into general United Nations development activities.

56. The programme's main priority must be to improve national infrastructure in the field of human rights, rather than organizing relatively costly seminars and workshops, or regional training courses on general issues. For example, his delegation intended to submit a draft resolution, under agenda item 10, on the formulation of model texts for national legislation in the field of human rights as they related to the administration of justice.

57. The Commission's special rapporteurs and working groups should be encouraged to submit detailed proposals for technical assistance projects, and the various United Nations treaty bodies should also be more closely involved. However, it was essential to remember that advisory services could never be a substitute for the Commission's fact-finding and monitoring work.

58. The Commission should distinguish more clearly between the programme's regular activities and the new activities financed by the Voluntary Fund. In his delegation's opinion, seminars, training courses and fellowship programmes should be financed under the regular advisory services programme, while specific measures in individual countries should be financed from the Voluntary Fund. It was essential to prepare clear and regular status reports on both types of project and to establish clearer procedures for following up individual projects.

59. His delegation and others had expressed the need for a set of guidelines to assist the Centre with projects financed both by the regular budget and by the Voluntary Fund. The projects currently under way could be used as pilot projects, from which the Centre could gain the experience it would need in the future.

60. His delegation appealed to all States to make full use of the advisory services programme and to support it both politically and financially. The programme was an important activity for the promotion of human rights in its own right, and should be given the priority it deserved.

61. Mrs. Regazzoli (Argentina) resumed the Chair.

62. Mr. POMPEE (Observer for Haiti) said that since his Government had taken power in 1988, it had placed particular emphasis on the primacy of the human person. By decrees dated 2, 5 and 8 December 1988, it had acceded to a number of human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Inter-American Convention to Prevent and Punish Torture, and the Additional Protocol to the American Convention on Human Rights. The Government intended to ratify those instruments shortly.

63. The Government had taken a number of measures to incorporate the provisions of those instruments into its legislation. On 13 March 1989, the President of the military Government had initiated measures to place the prison system under the control of the Ministry of Justice. Examining magistrates had been instructed to monitor the progress of cases and the

procedures used in prosecuting suspects. A decree of 19 September 1989 had established an independent body, the Administration pénitentiaire nationale (National Prison Authority) to draw up and implement all prison legislation throughout the country. A decree of 14 September 1989 established an Office de la protection du citoyen (Office for the Protection of Citizens), which protected citizens against all forms of abuse and infringement of their rights. Another decree, dated 22 September 1989, established a legal aid service within the Ministry of Justice, which enabled needy persons to defend their rights in court. All the above bodies had begun their work and were fully operational.

64. Referring to the Government's attempts to shed light on the circumstances surrounding the massacres of 29 November 1987 and 11 September 1988, he said that in November 1988, the Government had set up a special committee to investigate the tragedy of 29 November 1987. The committee, consisting of representatives of the Ministry of Justice, human rights organizations and the Haitian Journalists' Association, had held three meetings on 1 and 23 February and 23 March 1989, but the non-government side had since broken off contacts.

65. In January 1989, an examining magistrate had filed charges with a civil court against Franck Romain in connection with the massacre in Saint-Jean-Bosco Church on 11 September 1988. The Government had then submitted a request for Romain's extradition from the Dominican Republic, where he had sought asylum, but the request had been refused.

66. Paragraph 36 of the report referred to violent incidents in May and June 1989, when peasants had attempted to recover land which had been taken from them during the Duvalier period. A decree adopted on 14 July 1989 to assist needy peasants had, inter alia, established a commission to implement its provisions.

67. The Government had attempted to combat insecurity by increasing the size of the army and disarming the irregular forces. The police had seized large amounts of weapons and ammunition. The police now had new vehicles which enabled them to patrol the most sensitive areas more thoroughly. Most of the murders which had taken place had been connected with the settling of individual scores and quarrels between criminals; foreigners were sometimes involved. Any military personnel who infringed the code of discipline were punished according to the rules of military justice. The Government had also authorized the creation of private security agencies in May 1989. The agencies were employed on a basis of a written contract for the provision of a professional security service to anyone who requested it.

68. On 20 January 1990, the Government had declared a state of siege in order to counter the terrorism and insecurity which were threatening the holding of free elections. Certain articles of the Constitution had been temporarily suspended, a number of people had been arrested and expelled, and press restrictions had been imposed. Those measures had since been lifted. On 6 February 1990, a general amnesty had been declared for all political prisoners detained since September 1988 and exiles had been allowed to return to Haiti.

69. A national forum which had taken place from 9 to 17 February 1989, with the participation of political parties and social and vocational organizations, had made a number of recommendations on the preparations for free elections. On 23 February 1989, the current military Government had established the permanent electoral council responsible for independently organizing and monitoring elections both within Haiti and at its various diplomatic missions, preparing the electoral bill, updating electoral registers and settling any disputes arising either from the elections or in connection with the implementation of the Electoral Act. Its nine members had been selected from among representatives of institutions not involved in the elections.

70. The draft electoral calendar, published on 23 September 1989, had remained unamended and provided for three-stage elections: municipal elections in April 1990, legislative elections in July-August 1990 and presidential elections in October-November 1990. The Decree of 13 March 1989 had restored the Constitution of 10 March 1987, with the exception of a number of articles incompatible with the form of the current Government, and had, in particular, maintained all articles relating to the observance of human rights and fundamental freedoms. The Head of State had frequently reasserted his intention to carry the current electoral process to completion.

71. Mr. GALLON (Andean Commission of Jurists) said that although Colombia was one of the countries that received advisory services in the field of human rights from the United Nations, it was also a country with a very high level of human rights violations. In 1989 alone, violence attributable to political or allegedly political causes had left 3,211 dead. Those figures gave reason to wonder whether Colombia was making proper use of the advisory services provided by the United Nations.

72. It was no doubt impossible to gauge the effectiveness of some of those services in the short term, as their aim was to create a "human rights culture" by training officials, disseminating standards and establishing bodies to develop a less intolerant attitude and reinforce protective machinery. There were, none the less, areas in which their effectiveness could be measured, particularly through steps taken by the Government to tackle the current violence. The measures adopted in 1989, with the central objective of neutralizing violence attributable to drug traffickers and certain paramilitary groups, undoubtedly included positive features, in particular the decision to ban the "self-defence groups". However, such measures had been overdue and had been accompanied by authoritarian measures that were themselves a source of further actual or potential human rights violations.

73. Some of those measures were blatant violations of the International Covenants, even under the various states of emergency decreed in Colombia, including the current one, which had been in force continuously since 1984. The possibility of conducting house searches without a warrant had perhaps led to the capture of a number of criminals, but the rights of large numbers of destitute persons had been undermined as a result. The governmental authorization allowing the security forces to hold persons incommunicado for up to seven days, frequently extended to up to 20 days in practice. It was not only abhorrent, but a source of further violations, and ignored the recommendation made by the Special Rapporteur on Torture that no one should be

kept in detention without an effective opportunity to be heard promptly by a judicial or other authority. Failure to observe that recommendation removed a significant guarantee against torture, which was generally practised immediately following detention. The removal of judicial guarantees and restrictions on the exercise of habeas corpus further illustrated that, on the pretext of combating one of the causes of current human rights violations, the Government of Colombia had ignored the relevant international instruments and brought into being a dangerous climate of arbitrariness.

74. In addition to being overdue and occasionally arbitrary, the measures adopted in 1989 were insufficient, as they exclusively focused on violence attributable to drug traffickers. The Government had in most cases failed to dismiss members of the security forces implicated with paramilitary groups, and when it had, most of the dismissals had been for links with the drug trade, and not for human rights violations.

75. Nevertheless, the Special Rapporteur on summary or arbitrary executions had clearly indicated in his report (E/CN.4/1990/22/Add.1) that paramilitary groups operated very closely with elements in the armed forces and the police, and that an all-out effort was required to disband all paramilitary groups not authorized and regulated by the law, which should include the dismissal of all members of the armed forces and the police who have given support to such groups (paras. 63, 66 and 67). It was that all-out effort that was lacking in Colombia and until it was made, Colombians would continue to die violent deaths and the human rights situation in Colombia would deteriorate.

76. It was not sufficient for the advisory services provided by the United Nations to the Colombian Government to focus on human rights training or for the Government solely to concern itself with dismantling violent organizations of drug traffickers. What was needed above all else was for advisory services to be linked to the achievement of feasible short-term objectives, which first of all required a clear political will on the part of the Government to implement the recommendations of the Special Rapporteur on summary or arbitrary executions and dismiss members of the armed forces involved with paramilitary groups. And secondly, the actual measures adopted by the Government should be in conformity with international human rights standards. That would entail a review of legislation on the state of siege and the existence of the state of emergency itself.

77. It would be advisable to appoint a special rapporteur for Colombia or at least an adviser with a dual mandate allowing him to operate as both expert adviser and international observer. The most recent victims of violence in Colombia had been the woman mayor of Apartado, a woman journalist, two municipal councillors and several other people, including workers and a schoolteacher. Those murders, which had taken place in a region under heavy military control, were a further confirmation of the lack of political will to tackle the problem of collusion between the armed forces and paramilitary groups.

78. Mrs. Quisumbing (Philippines) resumed the Chair.

79. Mrs. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) said that the advisory services provided by the Centre for Human Rights had acquired considerable importance in recent years.

Although they were occasionally diverted from their objective, it was important that they should be provided to Governments demonstrating a genuine desire for change, either to accede to democracy or to tackle the causes of massive human rights violations.

80. That desire did not appear to be present in either Guatemala, where the human rights situation had not improved since the inception of advisory services, or in Haiti, whose Government had submitted no request for technical assistance and had ignored the offer of assistance in the organization of elections. The recent announcement of elections in Haiti came as a surprise. It was to be hoped that, as had recently been the case in Nicaragua, elections monitored by international observers could be held in Haiti, although it was difficult to see how that could be achieved in the absence of a request for such monitoring by the Governments.

81. The report by the Expert, Mr. Philippe Texier, indicated that the failure of advisory services in Haiti was attributable to specific causes, and in particular to the lack of interest on the part of the current Government, rather than to the country's economic circumstances. Economic and social rights were inseparably linked to civil and political rights, and respect for the latter constituted the essential foundation for a policy of economic development.

82. Recent developments in Haiti were particularly disturbing. The proclamation of a state of siege, accompanied by the suspension of press freedom and numerous arrests, seemed to have been designed to intimidate the Haitian people and discredit democratic forces. Mr. Louis Roy, the father of the 1987 Constitution, had been expelled in spite of his advanced age. Furthermore, promises regarding the ratification of international human rights instruments had not been kept. Advisory services would be discredited if they were maintained in the absence of genuine progress towards the restoration of democracy. Her organization echoed the proposal made by the Expert in his report, and urged the Commission to appoint a special rapporteur on Haiti.

83. The situation in Guatemala was marked by a number of contradictions. Violence was comparable to a disease, and while it was true that no one could be held responsible for the virus that caused a disease, responsibility should be borne by those who refused adequate treatment. Such appeared to be the case in Guatemala. If some of the information contained in the report of the Expert was to be believed, the Government had strengthened and developed the internal legal framework in order to promote respect for human rights and had endeavoured to rectify the shortcomings of the police, and in general, created a situation in which "all was for the best in the best of all possible worlds".

84. In his report, however, the Expert observed that an improvement in the human rights situation in Guatemala was linked to implementation of the Constitution, and the maintenance and consolidation of the democratic process. The Expert clearly indicated that although, in his view, the Government of Guatemala was not directly associated with human rights violations, it was not sufficient for a Government to refrain from directly violating human rights in its own country; it should implement a positive policy to prevent violations from occurring. The report also noted that the Government had not done everything it could to combat the serious human rights violations which had taken place in 1989. Those violations had escaped the vigilance of the Government, which might indicate that the latter had not succeeded in pursuing an effective policy in that area.

85. The report further drew attention to the situation of refugees, discrimination against the indigenous population, the lack of genuine investigations into crimes and the inadequate national dialogue between representatives of the conflicting parties. It confirmed that the prudent optimism of 1987 and 1988 had not been fulfilled. Only the provision of assistance capable of enabling the Guatemalan Government to tackle the impediments to democratization would enable the desired objectives to be achieved. Although the Government had on many occasions claimed that most violations were attributable to factors over which it had no control, if it sincerely wished to prove its good faith, it should request such assistance as was required.

86. Bearing in mind the requests made by official Guatemalan bodies, such as the Commission on Human Rights of the Guatemalan Congress, her organization requested the Commission on Human Rights to reappoint a special rapporteur to investigate the human rights situation in Guatemala and to report to the General Assembly and to the forty-seventh session of the Commission.

The meeting rose at 9.05 p.m.